

STATE OF MICHIGAN
COURT OF APPEALS

In re FUGATE-RAMIREZ/FUGATE-JORDAN,
Minors.

UNPUBLISHED

July 2, 2015

No. 323131

Oakland Circuit Court

Family Division

LC No. 12-798330-NA

Before: METER, P.J., and CAVANAGH and WILDER, JJ.

PER CURIAM.

Respondent, Tonya Lee Fugate, appeals as of right the order terminating her parental rights to the minor children, SFR, MFR, JFR, and NFJ, under MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist), (g) (failure to provide proper care or custody), (j) (reasonable likelihood that the child will be harmed if returned to parent), and (l) (rights to another child were terminated). We affirm.

I

On July 2, 2012, petitioner, the Department of Human Services (“DHS”), filed a petition seeking to remove SFR, MFR, JFR, and NFJ from respondent. The petition alleged that respondent had neglected or refused to provide care for the children, creating a substantial risk of harm to their well-being, and that respondent’s home was an unfit place for the children to live “by reason of neglect, cruelty, drunkenness, criminality, or depravity.” In particular, the petition alleged that (1) there was no electric service in the home, (2) there was no gas service in the home, (3) respondent left the children with relatives and her whereabouts were unknown, (4) the family had been evicted from the home, (5) respondent neglected her children, (6) Daryl Ramirez (“Daryl”), the putative father of SFR, MFR, and JFR, refused to financially support his children, (7) Derrick Jordan (“Derrick”), the putative father of NFJ, refused to provide a safe and stable home environment for NFJ, and (8) respondent had a history of drug use and noncompliance with Child Protective Services (“CPS”). DHS requested that the court take temporary custody of the children and place them with DHS. The petition was authorized, and the children were placed with DHS for care and supervision on July 6, 2012.

On July 31, 2012, a pretrial hearing was held. Respondent entered a plea in admission to the allegations in the petition, and the court assumed jurisdiction over the children. At the hearing, respondent testified that she had not possessed her own housing since December 2011. When respondent did have housing, she was unable to pay for utilities, and the utilities were shut off while the children were living in the home. Respondent had substance abuse problems while

she was the primary caregiver for the children and sought treatment through a rehabilitation program. Respondent acknowledged that she placed her children with relatives on July 2, 2012, but the relatives had known where respondent was. Additionally, respondent admitted that NFJ tested positive for drugs upon delivery. The children were placed with DHS for care and supervision, and respondent had supervised parenting time.

On September 18, 2012, a dispositional hearing was held. Respondent did not appear. The proposed treatment plan prepared by DHS included that respondent obtain appropriate housing, obtain a state identification card, keep DHS informed of her address, participate in parenting classes, provide proof of income, submit to a psychological evaluation, and submit to random drug testing. The trial court adopted the Parent Agency Agreement (PAA) proposed by DHS.

The information presented during the review hearings between September 2012 and March 2013 indicated that respondent visited the children sporadically, failed to submit to drug testing, failed to attend parenting classes, failed to obtain state identification, failed to secure housing, and failed to provide verification of a legal source of income. Respondent acknowledged that she had consumed Vicodin the night before the review hearing on October 19, 2012, explaining that her prescription for the drug ran out, and she did not have health insurance. Based on the caseworker's recommendation that respondent participate in dual diagnosis treatment for substance abuse and depression, the PAA was amended following a January 16, 2013 review hearing to include treatment for respondent's dual diagnosis of substance abuse and depression. Additionally, respondent indicated that she was working at a party store in March. The children were consistently doing well in their placement with their maternal grandparents.

On June 3, 2013, a permanency planning hearing was held. The children were still doing well with their maternal grandparents. Although respondent had participated in a psychological evaluation and submitted to several drug screens, she failed to make progress toward receiving mental health services, obtaining housing, attending parenting classes, and providing DHS with proof of income. She also failed to participate in drug tests. Respondent stopped visiting the children in mid-January, although she indicated at the hearing that she had visited the children during the previous weekend. Respondent's mother testified that respondent regularly visited the children, but she later testified that the visits were sporadic.

Respondent made some progress between July 2013 and December 2013. Stephen Emery, a foster-care specialist with DHS, indicated that respondent continued to attend parenting classes and underwent a psychological examination. Although respondent missed some of her drug screens, she passed the drug screens that she had taken. She missed some of her programming, although she continued to attend Community Mental Health and Community Network Services programming. However, the PRISM program terminated its services to respondent because she did not seem to be fully engaged even though she attended the sessions. She obtained employment as a dish washer, but she did not provide verification of employment until she produced a pay stub at a review hearing, and she later lost the job. She visited the children more consistently, although she did not visit the children in November.

On December 17, 2013, DHS filed a petition to terminate respondent's rights to Baby Boy Fugate ("Baby Boy"), an unnamed infant who was born on December 15, 2013. The petition noted that Baby Boy tested positive for Methadone, opiates, and cocaine at birth, and he experienced withdrawal symptoms. The petition also noted that respondent had given birth to two other drug-positive infants in the past, including NFJ. Respondent entered a plea of admission to the petition on March 10, 2014. The trial court found that there was a statutory basis for the termination of respondent's parental rights to Baby Boy. Respondent testified that it was in the best interests of the child to terminate her parental rights. Likewise, the court found by a preponderance of the evidence that termination was in the best interests of the child. The trial court entered an order terminating respondent's parental rights to Baby Boy on March 18, 2014.

Meanwhile, between December 2013 and April 2014, respondent remained homeless. There was still no verification that she was employed. Although she had submitted to several drug screens, respondent failed to report for others. Additionally, she tested positive for alcohol during one of the tests. Respondent continued to attend programming through Community Network Services, and she completed parenting classes. Respondent visited the children at the end of December 2013 and at the end of January 2014. The children were still thriving with their maternal grandparents.

On April 7, 2014, DHS filed a supplemental petition to terminate respondent's parental rights. The petition provided that the PAA required respondent to (1) obtain and maintain suitable housing, (2) complete parenting classes, and (3) complete random drug screens every week. It also indicated that respondent completed parenting classes, was in the process of obtaining housing, and completed several drug screens.

On May 28, 2014, a permanency planning and statutory basis hearing was held. Respondent was not present. Trial counsel requested an adjournment, explaining that respondent had indicated that she went to the emergency room because she woke up in intense pain and with at least 10 holes in her head. Respondent told trial counsel that she wished to be present by telephone if the referee did not adjourn the hearing. The referee denied the motion for an adjournment, noting that he did not "feel that it [was] a legitimate request based upon the information presented." The referee explained that the issues in this case needed to be addressed in a timely manner and that respondent was not always actively involved in this case. The referee explained that respondent's reason for failing to attend the hearing was "somewhat incredible." The referee noted that respondent could participate by telephone. The referee contacted respondent by phone, but respondent indicated that she was meeting with a doctor at that time and told the court that she would be finished within 20 minutes. The referee held a brief recess based on respondent's statement that she was finishing her meeting with the doctor and would soon be available by phone. When trial counsel attempted to reach respondent by telephone at the end of the recess, she could not reach respondent. The referee decided to move forward with the statutory basis hearing, but noted that he would stop the proceeding to put respondent on speaker phone if respondent contacted her attorney. Respondent never contacted her attorney or the court, even though she was supposed to call her attorney when she left the emergency room.

At the hearing, Emery provided the following testimony with regard to respondent's progress, testifying that he did not believe that respondent had benefitted from the services provided and had not made progress toward reunification. Respondent never provided proof that she had obtained housing, even though respondent indicated that she was attempting to do so. Respondent ultimately completed her parenting classes in July 2013. Respondent failed to attend the initial intakes for drug screens several times, failed to attend several of the required drug screens, and tested positive for alcohol following a couple of the tests. Respondent was required to attend group and individual counseling, but respondent only attended group counseling. Emery did not believe that respondent had benefitted from the group counseling. Respondent attended mental health programming for depression for a period of time, but she was never in compliance with the medication requirements. Respondent failed to maintain a suitable household for the children and failed to obtain a legal source of income. Although she had reported short-term employment, she did not provide verification of the employment. Additionally, respondent was required to have supervised parenting time with the children, but she only visited the children on a sporadic basis. Thus, Emery believed that the outstanding issues were respondent's substance abuse, mental health, lack of housing, and lack of lawful income. The prosecutor reiterated the facts presented by Emery during her arguments regarding the statutory bases for termination. Additionally, a report from Jail Alternatives of Michigan (JAMS), a drug testing service, produced by the prosecutor indicated that respondent tested positive for opiates in March 2014.

The trial court held that there were statutory grounds to terminate respondent's parental rights. It found that there was clear and convincing evidence that respondent's longstanding drug use, transient lifestyle, lack of income, and mental health problems continued to exist and that there was a reasonable likelihood that the problems would not be rectified within a reasonable time considering the children's young ages. It concluded that there was a reasonable likelihood that the children would be harmed if placed with respondent because of respondent's drug use, lack of suitable housing, inability to care for herself, and mental health problems. Finally, it found that respondent's rights to Baby Boy were terminated as a result of another termination proceeding.

On July 11, 2014, a best interests hearing was held. Patricia Wallace, a psychologist and forensic examiner who had interviewed the three oldest children, provided several recommendations. Wallace believed that a lifestyle change would be detrimental and recommended little disruption in each of the children's lives, providing findings with regard to each of the children. She also indicated that all of the children had a strong bond with each other and were happy with their placement with their maternal grandparents. The children told Wallace that the visits with respondent were "okay sometimes," but the children did not know when to expect a visit from respondent.

Emery also testified, indicating that the maternal grandparents have been meeting the children's needs; that respondent had obtained housing since the statutory basis hearing, but it did not have enough bedrooms for the children; that there is a bond between respondent and the children, and the children are happy to see respondent when she visits; that respondent completed parenting classes, but she did not benefit from the classes, as demonstrated by the fact that she continued to have substance abuse issues; that respondent had consistent issues with transportation; that respondent never provided verification of employment; and that respondent

failed to address her substance abuse issues, as she failed to complete several drug tests and substance abuse treatment.

Respondent testified regarding the housing that she had recently obtained, her attempt to secure employment, the reasons for her failure to submit to drug screenings, her issues with transportation, her prior drug use, and her belief that she could care for the children and comply with the drug screening requirements, especially in light of her recent acquisition of housing. Additionally, she admitted that she used Vicodin approximately one month before the hearing because of the holes in her head and that she used heroin approximately five months or more before the hearing, but she stated that she did not consume heroin regularly.

The trial court held that termination was in the best interests of each of the children, noting, among other things, the children's need for stability, respondent's ongoing issues with substance abuse, and respondent's difficulty in maintaining a stable home environment and employment. On July 21, 2014, the trial court entered an order terminating respondent's parental rights.

II

Respondent argues that the trial court erred in finding that there was clear and convincing evidence to terminate her parental rights under MCL 712A.19b(3)(c)(i), (3)(g), (3)(j), and (3)(l). We disagree and conclude that there was clear and convincing evidence to terminate her parental rights under MCL 712A.19b(3)(c)(i), (3)(g), and (3)(j). For the reasons stated below, we decline to address respondent's arguments with regard to the termination of her parental rights to Baby Boy and whether MCL 712A.19b(3)(l) was a proper statutory basis for termination.

"To terminate parental rights, a trial court must find by clear and convincing evidence that at least one statutory ground under MCL 712A.19b(3) has been established." *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). "This Court reviews for clear error the trial court's factual findings and ultimate determinations on the statutory grounds for termination." *In re White*, 303 Mich App 701, 709; 846 NW2d 61 (2014). A factual finding is clearly erroneous if this Court is definitely and firmly convinced that a mistake has been made. *Id.* at 709-710. A trial court's determination regarding the existence of statutory grounds for termination is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake was made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

A

The trial court did not clearly err in finding that the conditions that led to adjudication continued to exist at the time of the statutory basis hearing and determining that there was clear and convincing evidence that a statutory basis for termination was established under MCL 712A.19b(3)(c)(i). MCL 712A.19b(3)(c)(i) provides that a trial court may terminate a respondent's parental rights if "the parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial disposition order, and the court finds, by clear and convincing evidence," that "[t]he conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age."

DHS initially filed a petition to remove SFR, MFR, JFR, and NFJ because respondent was unable to provide stable housing for her children, was unable to provide utilities when she had housing, had a history of drug use and noncompliance with CPS, and had neglected her children in other ways. After the children were removed, the proposed treatment plan prepared by DHS, which the trial court adopted, included that respondent must obtain appropriate housing, obtain a state identification card, keep DHS informed of her address, participate in parenting classes, provide proof of income, submit to a psychological evaluation, and submit to random drug tests.

At the statutory basis hearing, Emery testified that respondent failed to obtain suitable housing throughout the duration of the case. Respondent indicated to Emery that she was in the process of obtaining Section 8 housing, but she never provided Emery with confirmation that she obtained housing. Respondent was required to submit to weekly drug tests and a substance abuse evaluation. Respondent was referred for drug screening several times, and she did not attend the initial intakes. However, respondent eventually attended an intake and submitted to several drug screens. She tested positive for alcohol following a couple of drug screens and failed to attend numerous drug screens, at which time JAMS discontinued her case. Respondent was required to attend group and individual counseling, but she did not attend individual counseling. Respondent was required to maintain a suitable household for the children, and she failed to do so. She was also required to have a legal source of income, which she failed to obtain; she reported short-term employment, but never provided verification of the employment. Respondent attended mental health programming for depression for a short period of time, but she was never in compliance with the medication requirements. Respondent was required to have supervised parenting time with the children, but she only visited the children on a sporadic basis. Emery did not believe that respondent had made progress toward reunification. Thus, there was clear and convincing evidence that respondent's housing, employment, and substance abuse issues continued to exist at the time of the hearing. See MCL 712A.19b(3)(c)(i).

In addition, there was no reasonable likelihood that the conditions would have been rectified within a reasonable time considering the children's age. All of the children were under 10 years of age at the time of the hearing. The children were placed with DHS for care and supervision on July 6, 2012. The statutory basis hearing took place on May 28, 2014, which was almost two years after the children were initially removed from respondent's care. Respondent had not made progress toward reunification in that time. Therefore, there was no reasonable expectation that respondent would have been able to provide proper care and custody within a reasonable time considering the children's young ages, the fact that the children had been in the care of DHS for almost two years, and the fact that respondent failed to make significant progress toward rectifying the conditions that led to adjudication during the two-year timeframe. See MCL 712A.19b(3)(c)(i).

We note that respondent raises arguments on appeal related to the failure of a DHS worker to "go out and look" at the Section 8 housing that respondent had secured, the possibility that respondent's drug addiction could be remedied by in-patient rehabilitation, respondent's inability to provide proof of income because she was paid under the table in cash, and respondent's inability to visit her children due to her lack of transportation. However, respondent was required obtain *legal* employment, and respondent was required to *provide verification* of housing and employment throughout the proceedings, which she failed to do.

Likewise, despite respondent's arguments related to the possibility of in-patient rehabilitation and her transportation issues, we cannot conclude, in light of respondent's overall lack of progress throughout the proceedings and the evidence presented at the statutory basis hearing, that the trial court clearly erred in determining that the conditions that led to adjudication continued to exist and that there was not a reasonable likelihood that the conditions would be remedied within a reasonable time. *In re Mason*, 486 Mich at 152.

B

Likewise, the trial court did not clearly err in finding that there was clear and convincing evidence that a statutory basis for termination was established under MCL 712A.19b(3)(g). MCL 712A.19b(3)(g) provides that a trial court may terminate a respondent's parental rights if "[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age." "[A] parent's failure to comply with the parent-agency agreement is evidence of a parent's failure to provide proper care and custody for the child." *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003).

The evidence discussed above with regard to whether a statutory basis existed under MCL 712A.19b(3)(c)(i) also supports a finding that, without regard to her intent, respondent failed to provide proper care and custody for the children, and there was no reasonable expectation that respondent would have been able to provide proper care and custody within a reasonable time considering the children's ages. It is evident that respondent did not substantially comply with the PAA, which demonstrates that she failed to provide proper care and custody for the children when she failed to obtain housing, failed to obtain a legal source of income, and failed to follow the programming for her substance abuse and mental health issues. See MCL 712A.19b(3)(g); *In re JK*, 468 Mich at 214. Likewise, there was no reasonable expectation that respondent would have been able to provide proper care and custody within a reasonable time in light of the fact that respondent failed to take significant steps toward obtaining housing, obtaining a source of income, and addressing her substance abuse and mental health issues in the two years that the children were placed with DHS for care and supervision. See MCL 712A.19b(3)(g). Therefore, there was clear and convincing evidence that statutory grounds for termination were established under MCL 712A.19b(3)(g).

C

Finally, the trial court did not clearly err in finding that statutory grounds for termination were established by clear and convincing evidence under MCL 712A.19b(3)(j). MCL 712A.19b(3)(j) provides that a trial court may terminate a respondent's parental rights if "[t]here is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent." For purposes of MCL 712A.12b(3)(j), "harm" includes both physical and emotional harm. *In re Hudson*, 294 Mich App 261, 268; 817 NW2d 115 (2011). Emotional harm may include the deprivation of a normal childhood home. See *id.* Given respondent's failure to secure stable housing, failure to obtain a legal source of income, and failure to comply with substance abuse testing and mental health treatment, the trial court did not clearly err in determining that there was clear and convincing evidence that there was a reasonable likelihood that the children would be harmed—whether

emotionally, physically, or both—by unstable and inadequate housing, respondent’s ongoing psychological issues, and respondent’s ongoing substance abuse. See MCL 712A.19b(3)(j); *In re Hudson*, 294 Mich App at 268.

III

Respondent next argues that the trial court erred in determining by a preponderance of the evidence that termination was in the best interests of the children. We disagree.

This Court reviews for clear error a trial court’s best-interest determination. *In re White*, 303 Mich App at 713. Pursuant to MCL 712A.19b(5), if the trial court finds by clear and convincing evidence that a statutory basis exists for terminating parental rights, then the court must order termination of the respondent’s parental rights, and order that additional efforts for reunification are not made, if the court finds by a preponderance of the evidence on the whole record that termination is in the best interests of the child. *Id.*; *In re Olive/Metts*, 297 Mich App 35, 42; 823 NW2d 144 (2012). The trial court should consider all of the available evidence in determining whether termination is in the child’s best interests. *Id.* “To make a best-interest determination, the court may consider the child’s bond to the parent, the parent’s parenting ability, the child’s need for permanency, stability, and finality, and the advantages of a foster home over the parent’s home.” *In re Brown/Kindle/Muhammad*, 305 Mich App 623, 637; 853 NW2d 459 (2014) (quotation marks and citation omitted). “The trial court may also consider a parent’s history of domestic violence, the parent’s compliance with his or her case service plan, the parent’s visitation history with the child, the children’s well-being while in care, and the possibility of adoption.” *In re White*, 303 Mich App at 714. “The fact that a child is placed with a relative weighs against termination.” *In re Olive/Metts*, 297 Mich App at 42. The court must make a best-interest determination for each child individually. *Id.* at 42. In most cases, it is in the best interests of each child to keep siblings together. See *id.*

The trial court did not err in determining that termination of respondent’s parental rights was in the best interests of each child. On the one hand, Emery testified that there is a bond between respondent and the children, that the children love their mother, and that the children are happy to see respondent when she visits. In addition, the children were placed with relatives, which weighs against termination. See *In re Brown/Kindle/Muhammad*, 305 Mich App at 637.

However, the evidence presented at the best-interest hearing indicated that the children needed permanency, stability, and finality, and that the children were thriving in their grandparents’ care. See *id.*; *In re White*, 303 Mich App at 714. Wallace, a psychologist and forensic examiner, recommended that a change in the current living arrangement would be detrimental for MFR because she has special needs. Thus, Wallace recommended that MFR should remain in her stable home environment. With regard to SFR, Wallace stated that a change may affect her stability and self-assurance given SFR’s age and the fact that SFR was confused and not sure with whom she belongs. With regard to JFR, Wallace recommended that there be little disruption in his life since he had developed a strong bond with his grandfather. Emery also testified that NFJ was bonded to her grandparents. Wallace testified that all of the children had a strong bond with each other and that they were happy in their placement with their maternal grandparents. The children told Wallace that the visits with respondent went “okay sometimes,” and they would “get along okay,” but they did not know when to expect a visit from

respondent. Emery testified that the maternal grandparents have been meeting the children's needs and that the children were thriving with their maternal grandparents. He testified that the failure to terminate respondent's parental rights could potentially disrupt the stability of the children. Thus, each child's need for stability weighed in favor of termination.

In addition, the evidence indicated that the foster home had advantages over respondent's home and that respondent had failed to comply with her case service plan. Although Emery testified that respondent obtained housing since the last hearing, Emery did not believe that the house contained enough bedrooms for the children. Additionally, respondent testified that her sister was currently living in the apartment, which, as the trial court properly recognized, exacerbated the concern regarding respondent's present housing. In addition, respondent continued to struggle with substance abuse at the time of the best interests hearing. Respondent testified that she consumed Vicodin, which was not prescribed to her, approximately one month before the hearing. She had also used heroin approximately five months or more before the hearing. Respondent completed parenting classes, but Emery did not believe that respondent benefitted from the classes since she continued to have substance abuse problems that interfered with her ability to be an effective parent. Emery had to refer respondent for drug screening three or four times since respondent failed to attend the drug tests. Respondent testified that she did not have an excuse for failing to take the drug screens. Respondent had consistent issues with transportation. Respondent reported that she was employed in February 2014, but did not provide verification of her employment, and she testified at the best-interests hearing that she was last employed approximately a year before the hearing. Thus, the evidence indicated that the foster home had advantages over respondent's home since respondent did not have adequate housing, did not verify her employment, and had continuing substance abuse problems. See *id.* at 637. Therefore, the trial court did not err in determining by a preponderance of the evidence that termination was in the best interests of each of the children in light of the children's need for permanency and stability, the advantages of the foster home over respondent's home, the fact that the children were thriving in their grandparents' care, and respondent's failure to comply with the case service plan. See *In re Brown/Kindle/Muhammad*, 305 Mich App at 637; *In re White*, 303 Mich App at 714.

We note that respondent argues that termination was improper under MCL 712A.19b(3)(g) and (3)(j), and that termination was not in the children's best interests, because the trial court failed to consider a legal guardianship with the children's maternal grandparents as an alternative to termination. However, a trial court is not required to establish a guardianship instead of terminating parental rights if it is not in the children's best interests to do so. See MCL 712A.19a(7)(c); *In re COH, ERH, JRG, & KBH*, 495 Mich 184, 204-208; 848 NW2d 107 (2014); *In re Mason*, 486 Mich 142, 168-169; 782 NW2d 747 (2010); *In re McIntyre*, 192 Mich App 47, 52-53; 480 NW2d 293 (1991). For the reasons stated in this opinion, the trial court did not err in declining to consider a guardianship and determining that termination was in the children's best interests despite the children's placement with their maternal grandparents. See *In re Olive/Metts*, 297 Mich App at 43.

IV

Respondent raises a series of arguments on appeal regarding the termination proceedings related to Baby Boy, including that (1) trial counsel provided ineffective assistance when she

permitted respondent to enter a plea admitting the allegations in the petition to terminate her parental rights with regard to Baby Boy, and when she failed to instruct respondent to wait to enter the plea until after the termination hearing with regard to respondent's other four children, (2) her due process rights were violated when the referee failed to inform her on the record of the consequences of her plea, and (3) MCL 712A.19b(3)(l) (rights to another child were previously terminated) was not a valid statutory basis for the termination of her parental rights in light of the ineffective assistance provided by trial counsel and the trial court's failure to adequately inform respondent of the consequences of the plea. However, given that "[o]nly one statutory ground for termination need be established," *In re Olive/Metts*, 297 Mich App at 41, we decline to address the arguments related to the termination proceedings involving Baby Boy and whether termination was proper under MCL 712A.19b(3)(l) in light of our conclusion that three other statutory bases existed for the termination of respondent's parental rights to SFR, MFR, JFR, and NFJ.

V

Finally, respondent argues that the referee abused his discretion when he refused to grant respondent's request to adjourn the statutory basis hearing when respondent did not appear. We disagree.

This Court reviews a trial court's decision on a motion for an adjournment for an abuse of discretion, which "occurs when the trial court chooses an outcome that falls outside the range of principled outcomes." *In re Utrera*, 281 Mich App 1, 8, 15; 761 NW2d 253 (2008) (quotation marks and citation omitted). In child protective proceedings, a trial court's discretion to grant an adjournment is guided by MCR 3.923(G), which provides that the trial court should grant an adjournment of a trial or hearing in a child protective proceeding only (1) for good cause, (2) after considering the best interest of the child, and (3) only for the shortest period of time that is necessary. This Court has defined "good cause" as "a legally sufficient or substantial reason." *Id.* at 11.

The referee did not abuse his discretion in failing to adjourn the statutory basis hearing. First, the referee did not abuse his discretion in finding that respondent's reason for failing to attend the hearing was "somewhat incredible" and doubting that the request for an adjournment was "a legitimate request based upon the information presented." Even though Emery clarified at a later proceeding that respondent was likely referring to bug bites, the only reason provided for respondent's absence at the proceeding was that respondent had 10 holes in her head. Second, the referee expressly left open the possibility for respondent to participate by phone at any point during the hearing and made at least two attempts to contact respondent by phone so that respondent could participate in the proceeding. Respondent failed to make herself available by phone even though she indicated during the proceeding that she was nearly finished seeing the doctor and that she would be available by phone shortly. Further, the referee held a short recess based on respondent's representations, after which respondent was still unreachable by phone, and respondent failed to contact her attorney or the court during the rest of the hearing. Third, the referee properly considered the fact that the issues in this case needed to be addressed on a timely basis, noting the longevity of the case, and that respondent was not always actively involved in the case. Therefore, the referee did not abuse his discretion in finding that a legally sufficient or substantial reason to adjourn the hearing did not exist. See MCR 3.923(G); *In re*

Utrera, 281 Mich App at 11. Likewise, given the reason provided by respondent for not attending the hearing, the referee's and trial counsel's repeated attempts to contact respondent by phone, and the referee's other findings, we cannot conclude that referee's decision to proceed despite respondent's absence was outside the range of principled outcomes. *In re Utrera*, 281 Mich App at 15.

Affirmed.

/s/ Patrick M. Meter
/s/ Mark J. Cavanagh
/s/ Kurtis T. Wilder